

ALB:CNR

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

BRETT OFSINK,
also known as "Josh Smith" and
"Josh James,"

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS.:

CINDY A. WOLFF, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

In or about and February 2, 2019 and May 31, 2019, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant BRETT OFSINK, also known as "Josh Smith" and "Josh James," did knowingly receive visual depictions, the production of such visual depictions having involved the use of one or more minors engaging in sexually explicit conduct and such visual depiction was of such conduct, using any means or facility of interstate or foreign commerce and in and affecting interstate and foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce.

(Title 18, United States Code, Section 2252(a)(2)).

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 06 2019 ★

LONG ISLAND OFFICE

COMPLAINT AND AFFIDAVIT IN
SUPPORT OF ARREST WARRANT

M. No. _____
(18 U.S.C. § 2252(a)(2))

MJ 19- 530

The source of your deponent's information and the grounds for her belief are as follows:¹

1. I have been employed as a Special Agent with the FBI since October 2005, and am currently assigned to the New York-based Long Island Child Exploitation Task Force. I have gained expertise in the conduct of child pornography and exploitation investigations through training in seminars, classes, and work related to conducting these types of investigations, including the execution of multiple search warrants relating to child pornography offenses and the subsequent prosecution of offenders. In addition, I have consulted with other experienced child pornography and exploitation investigators.

2. I have personally participated in the investigation of the offenses discussed below. I am familiar with the facts and circumstances of this investigation from: my personal participation in the investigation, my review of documents, my training and experience, and discussions I have had with other law enforcement personnel concerning the creation, distribution, and proliferation of child pornography. Additionally, statements attributable to individuals herein are set forth in sum and substance and in part.

¹ Because this affidavit is submitted only to illustrate that probable cause exists to believe that the defendant committed the aforementioned crime, all the facts known to me as a result of my investigation have not been included.

A. The Investigation

3. On or about May 2, 2019, the FBI received information in connection with an ongoing investigation of Kik² group chats regarding a Kik chat room identified as [REDACTED]. One of the Kik [REDACTED] room users identified during the investigation was display name "Josh Smith," with user name "joshjamie516" (the "Josh Smith Account"). On April 26, 2019, the Josh Smith Account posted to the [REDACTED] room the following [REDACTED]

4. On or about April 26, 2019, a law enforcement officer working in an undercover capacity ("UC") sent the Josh Smith Account a private message via Kik, which stated that the UC was [REDACTED]. The Josh Smith Account responded that [REDACTED] and sent the UC non-pornographic photographic images via Kik, [REDACTED]. The Josh Smith Account is associated with the email address joshjamie516@gmail.com and IP address 173.68.184.34. According to

2 Kik Interactive Inc. is a Canadian company that offers a free instant messaging mobile application (app), Kik Messenger. The app is commonly just called Kik. Kik markets itself as "the only chat platform built especially for teens and as a clear leader in chatbots, Kik will become the central hub for everyday life for teens across the world as we grow." [1] Through the app, users can transmit and receive messages, photos, videos, sketches, mobile webpages, and other content, both publicly (to all users or groups of users) and privately (to a specific user).

3 [REDACTED]

4 Based on my training and experience and participation in this investigation, "pm" means to contact the user by private message so that the following communication is shielded from the view of the rest of the participants in the group chat room.

information obtained from Verizon Fios, the subscriber for this IP address when used by the Kik account from April 2, 2019 to April 27, 2019 was the defendant BRETT OFSINK, who resided at a residence in Syosset, New York. An email address attached to the IP address also included the defendant's first and last name.

5. On or about May 31, 2019, the undersigned FBI Special Agent and Task Force Officer interviewed the defendant BRETT OFSINK at his Syosset residence. During the course of the interview, the defendant stated that he had used Kik on his desktop computer using a program called BlueStacks.⁵ OFSINK further recalled being in a Kik chat room [REDACTED] and that his user name was "Josh James." OFSINK also identified the photographic image that he had sent to the UC, [REDACTED] from the internet. OFSINK also gave his written consent to allow the FBI to search his computer.

6. On or about May 31, 2019, the FBI conducted a forensic examination of the defendant BRETT OFSINK's computer. In addition to recovering the photographic images OFSINK sent to the UC, the FBI recovered images and videos of child pornography from a folder titled "BlueStacks." More specifically, contained with the "BlueStacks" folder were, among others, the following videos, which are available for the Court's review:

a. a video approximately 74 seconds in length depicting a female toddler naked from the waist down being anally penetrated by an adult male's penis;

5 Bluestacks is a software based emulator application that enables a Mac or PC to operate as an Android device while using the peripheral devices of the host computer, including its internet connection. Inside the application of BlueStacks the user can install software only available for Android devices, and connect to the internet using available applications, essentially creating a virtual cell phone for use on a personal computer using the internet connection provided by the personal computer. Since BlueStacks runs using emulator and virtual machine technologies, its files are typically contained within the BlueStacks application, therefore files contained or created within BlueStacks are not deciphered, viewable or managed using the personal computer's native operating system.

b. a video approximately 63 seconds in length depicting a male toddler naked from the waist down penetrating an adult female vaginally with his penis. The adult female is holding the toddler by his buttocks while simultaneously spreading the toddler's buttocks and exposing his anus to the camera; and

c. a video approximately 10 seconds in length depicting a naked prepubescent female being anally penetrated by an adult male's penis.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant BRETT OFSINK, also known as "Josh Smith" and "Josh James," so that he may be dealt with according to law.

Cindy A. Wolff
Cindy A. Wolff
Special Agent
Federal Bureau of Investigation

Sworn to before me this
6 day of June, 2019

IS/Gary R. Brown
HONORABLE GARY R. BROWN
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK